



Ohio Revised Code

Section 107.43 General Assembly authority to rescind or invalidate orders or rules during emergency; civil actions.

Effective: April 3, 2023

Legislation: Senate Bill 202

(A) As used in this section:

"Administrative department" means a department listed under section 121.02 of the Revised Code.

"Administrative department head" means a department head listed under section 121.03 of the Revised Code.

"Internal management rule" means any rule, regulation, or standard governing the day-to-day staff procedures and staff operations within an administrative department or state agency, or within the office of an administrative department head or statewide elected officer.

"Rule" means, unless the context dictates otherwise, any rule, regulation, or standard adopted, promulgated, and enforced by a statewide elected officer, administrative department, administrative department head, or state agency under the authority of the laws governing such officer, department, department head, or state agency. "Rule" does not include an internal management rule.

"State agency" means any organized body, office, agency, commission, board, institution, or other entity established by the laws of the state for the exercise of any function of state government. "State agency" does not include a court.

"State of emergency" has the meaning defined in section 107.42 of the Revised Code.

"Statewide elected officer" means the governor, lieutenant governor, secretary of state, auditor of state, attorney general, and treasurer of state.

(B) Beginning the day the governor declares a state of emergency, the governor and the department of health promptly shall report to the president of the senate and the speaker of the house of



representatives every action the governor or department takes in response to the state of emergency, including actions by the department or director of health under sections 3701.13 and 3701.14 of the Revised Code.

(C)(1) If the governor declares a state of emergency, the general assembly may do any of the following by adopting a concurrent resolution:

(a) Rescind, in whole or in part, any order or rule issued or adopted by an administrative department, administrative department head, state agency, or statewide elected officer in response to a state of emergency, including an order to authorize an agency to adopt, amend, or rescind rules under division (G) of section 119.03 of the Revised Code. This division does not apply to an order issued to declare a state of emergency.

(b) Invalidate, in whole or in part, an emergency rule adopted or amended by an agency in response to the state of emergency and pursuant to an emergency order the governor issues under division (G)(1) of section 119.03 of the Revised Code;

(c) Authorize a rule rescinded by an agency under division (G)(1) of section 119.03 of the Revised Code in response to the state of emergency to be readopted, in whole or in part;

(d) Invalidate, in whole or in part, an emergency rule adopted by an agency in response to the state of emergency pursuant to division (B)(2) of section 111.15 of the Revised Code.

(2) If the general assembly rescinds an order or rule, or a portion thereof, the administrative department, administrative department head, state agency, or statewide elected officer shall not reissue that order or rule, the rescinded portion, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion, for a period of sixty calendar days following the adoption of the concurrent resolution by the general assembly, except as provided in division (C)(3) of this section.

(3)(a) Within sixty calendar days of the general assembly rescinding an order or rule under division (C)(1) of this section, the governor, on behalf of an administrative department, an administrative department head, or a state agency, may submit a request to the general assembly to authorize an



administrative department, an administrative department head, or a state agency to reissue a rescinded order or rule, rescinded portion thereof, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion issued or adopted by an administrative department, administrative department head, or state agency. Upon review, the general assembly may adopt a concurrent resolution authorizing the request, in whole or in part.

(b) Within sixty calendar days of the general assembly rescinding an order or rule under division (C)(1) of this section, a statewide elected officer may submit a request to the general assembly to reissue a rescinded order or rule, rescinded portion thereof, a substantially similar order, rule, or portion, or any restriction contained in the rescinded order or rule or rescinded portion issued or adopted by the statewide elected officer. Upon review, the general assembly may adopt a concurrent resolution authorizing the request, in whole or in part.

(D)(1) Notwithstanding any other provision of the Revised Code, a person who challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, in a civil action for damages, declaratory judgment, injunctive relief, or other appropriate relief may do so in whichever of the following courts is applicable regarding the action:

(a) If the civil action is for damages, the action may be brought only in the court of claims.

(b) If the civil action is for declaratory judgment, injunctive relief, or other appropriate relief other than damages, the action may be brought in an appropriate court located in the county where the person's residence or business is located or in the court of claims.

(c) If the civil action is for damages and also is for declaratory judgment, injunctive relief, or other appropriate relief, the action may be brought only in the court of claims.

(2) If a person successfully challenges an order or rule adopted by an administrative department, administrative department head, state agency, or statewide elected officer that is issued or adopted in response to a state of emergency, the administrative department, administrative department head, state agency, or statewide elected officer shall pay the person's reasonable attorney's fees and court costs.



(E) An order or rule issued or adopted in violation of this section is invalid and has no legal effect.